

Glaser Weil

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Attorneys for Respondents

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

ARMIN AZOD, an individual; DR.
RAMEZ ELGAMMAL, an individual;
DR. SHANTANU SHARMA, an
individual; DR. DONG ZHANG, an
individual, and PETER JOHN, an
individual,

Petitioners,

v.

JAMES G. ROBINSON, an individual;
MORGAN CREEK PRODUCTIONS,
INC., a Delaware corporation; CECILIA,
LLC; a Delaware Limited Liability
Company; GOOD STUFF, LLC; a
Delaware Limited Liability Company,

Respondents.

CASE NO.: 2:22-cv-05214-CAS-MRW

Hon. Christina A. Snyder

**RESPONDENTS' NOTICE OF
MOTION TO DISMISS**

DATE: September 26, 2022
TIME: 10:00 AM PST
COURTROOM: 8D

TO THE COURT, ALL PARTIES, AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on September 26, 2022, at 10:00 a.m. or as soon thereafter as the matter may be heard in Courtroom 8D, of the above-entitled Court, located at 350 W. 1st Street, Los Angeles, CA 90012, Respondents James G. Robinson, Morgan Creek Productions, Inc., Cecilia, LLC, and Good Stuff, LLC (“Respondents”), by and through their counsel of record, Glaser Weil Fink Howard Avchen & Shapiro LLP, will and hereby move this Court for an order to dismiss this proceeding based on the following grounds:

1. The doctrine of forum *non conveniens* applies to compel dismissal of this action in favor of a previously pending proceeding in Maryland to vacate the JAMS arbitration award which is the subject of Petitioners’ motion (“Award”). In the underlying arbitration agreement (“Agreement”), Petitioners irrevocably agreed that “any action or proceeding arising from or relating to [that] Agreement may be brought only in the court of Maryland” and further waived “any objection to proceeding in such venue”;

2. The doctrine of collateral estoppel applies to compel the dismissal of this action based on Judge John F. Walter’s order entered May 10, 2016, in which he dismissed Petitioners’ action based on the forum selection clause contained in the Agreement;

3. There is an absence of federal question jurisdiction supporting this action because The Convention on the Recognition and Enforcement of Foreign Arbitral Awards, also known as the New York Convention, does not apply to an arbitral award that was entered, as here, in the United States, and because the Federal Arbitration Act does not supply an independent basis for federal question jurisdiction; and

4. There is an absence of diversity jurisdiction supporting this action because Respondent Morgan Creek Productions, Inc., is a citizen of California, and three of the Petitioners are citizens of California (according to their Motion at 10:25-26).

This Motion is made following the conference of counsel pursuant to L.R. 7-3,

1 which took place on August 15, 2022.

2 This Motion is based on this Notice of Motion and Motion to Dismiss, the
3 concurrently filed Memorandum of Points and Authorities in support thereof, the
4 Declaration of Fred Heather and the exhibits filed therewith, the Declaration of James
5 G. Robinson, the complete files and records in this matter, and upon such other oral
6 and/or documentary evidence, if any, that may be presented prior to or at the time of
7 hearing on this matter.

8 Respondents are also concurrently lodging a [Proposed] Order with the Court.

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10 DATED: August 29, 2022

GLASER WEIL FINK HOWARD
AVCHEN & SHAPIRO LLP

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13 By: 
14 FRED D. HEATHER
15 AARON P. ALLAN

16 Attorneys for Respondents
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